

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

THE HIPSAVER COMPANY, INC.,

Plaintiff,

V.

J.T. POSEY COMPANY,

Defendant.

AND RELATED COUNTERCLAIM.

Civil Action No. 05-10917 PBS

ORAL HEARING REQUESTED

**J.T. POSEY COMPANY'S OBJECTIONS TO THE HIPSAVER COMPANY, INC.'S
DEPOSITION DESIGNATIONS**

J.T. Posey Company (“Posey”) hereby objects to The HipSaver Company, Inc.’s (“HipSaver”) “designation” of deposition testimony and asks that the “designation” be stricken without leave to re-file.

I. FACTS

HipSaver designated the depositions of Victoria Lewis, Edward Ebramzadeh, Kevin Minissian, Edward Goodwin, and Helen Brogna in their entireties, including deposition instructions, objections and colloquy between counsel. *See* HipSaver's Designations of Deposition Testimony. Additionally, HipSaver designated large numbers of whole pages of the depositions of Roy Seizo Carr and Charles Nail. *Id.*

II. ARGUMENT

HipSaver's designation of the depositions of Edward Goodwin and Helen Brogna, its

own President and Executive Vice President, is improper. Under Federal Rule of Civil Procedure 32(a), depositions may be used, at trial against other parties. HipSaver is simply not permitted to designate the depositions of its own officers in support of its own case.

Additionally, HipSaver's designation of the entirety of the depositions of Victoria Lewis, Edward Ebramzadeh, and Kevin Minissian, as well as large numbers of whole pages of the depositions of Roy Seizo Carr and Charles Nail makes it impractical, if not impossible, for Posey to make, and for the Court to consider, proper evidentiary objections. Thus, HipSaver's "designation" of testimony should be stricken.

III. CONCLUSION

For the forgoing reasons, HipSaver's deposition designation should be stricken without leave to amend.

Dated: May 22, 2007

J.T. POSEY COMPANY

By its attorneys,

/s/ Douglas H. Morseburg
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CERTIFICATE OF SERVICE

I certify that this document has been filed through the Electronic Case Filing System of the United States District Court for the District of Massachusetts and will be served electronically by the court to the Registered Participants identified in the Notice of Electronic filing.

May 22, 2007

/s/ Donald K. Piper

Donald K. Piper